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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/576,749

04/21/2006

Luigi Tessitore

A2711

8265

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07/11/2008

Paul E Milliken
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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/576,749 | Applicant(s) TESSITORE, LUIGI | |
| | Examiner Lan Nguyen | Art Unit 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Specification

2. The abstract of the disclosure is objected to because it is longer than 150 words and comprises legalese. Correction is required. See MPEP § 608.01(b).
3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.

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- (1) Field of the Invention.
- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The following claimed features lack proper antecedent basis in claims 1 and 9: the parking brake lever, said one brake shoe, the cable, the viewing opening and the spacing. Applicant is urged to review the dependent claims to correct the same.
- Claims 1-9 employ the following indefinite terms: of the type described, thus enabling, can be assessed, tend to, so that, its, designed to, (e.g. a feeler gauge), (measuring),etc.

- Claims 1-8 also recite functions and results instead of structures. For example, in claim 1, portion “visible through the viewing opening ... to a predetermined level.”; in claim 3, portion “the viewing opening ... with the parking lever.”; in claim 5, portion “when the parking lever ... the viewing opening”; and in claim 6, portion “allows the insertion ... to said brake shoe portion.”
- In claim 9, portion “the parking brake released the cable is in tension” does not make sense.

Due to the above mentioned deficiencies, claims 1-9 are being examined as best understood.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Pleitavino (FR 2599797 A1).

Re: claim 1, Pleitavino shows in figures 1-4, a parking brake having a backplate 8, a viewing opening 12, a parking lever 10, one brake shoe 3. Please note the indefiniteness rejection above.

Re: claim 3, figure 4 shows the quick attach hook 19, a cable 11 in figure 2 and a nipple 13. Please note the indefinite rejection above.

Re: claim 4, figure 2 shows cover 14.

Re: claim 9, Pleitavino shows a method of testing a cable of a parking brake according to the brake structure of claim 1 comprising: positioning the handbrake in a released position, not mentioned in the abstract but is considered to be an inherent step in order to safely test, install, repair, replace or perform any type of work on the brake; viewing the spacing between the shoe 3, the cable 11 and lever 10 to ensure proper position between the lever 10, the cable 11 and the shoe 3 as stated in the Abstract and as shown in figures 1 to 4. Please note the indefiniteness rejection above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pleitavino (FR 2599797 A1) in view of Asai (6,502,670).

Pleitavino's brake, as rejected above, is silent of a spring. Asai teaches a return spring 25 to retract the parking lever 23 to the shoe 3 wherein the spring is shown as a loop spring in figure 1 and as a coil spring in figure 7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a retracting spring such as taught by Asai in the brake system of Pleitavino in order to

ensure that the cable is securely attached to the brake lever and that the brake lever is properly retracted to the shoe.

10. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pleitavino (FR 2599797 A1) in view of Matteis et al. (6,802,397).

Pleitavino's brake, as rejected above, shows an abutment 15 but is silent of an aperture. Matteis teaches an abutment 29 in figure 9 with an aperture not numbered under the abutment 29 wherein abutment 29 and the aperture are parts of the parking lever 15. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed an abutment with an aperture such as taught by Matteis in the brake of Pleitavino since the abutment 29 and the aperture can be formed in one compact and easy step of blanking the tang 29 from the flat plate of the brake lever 15. Please note the indefiniteness rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is (571) 272-7121. The examiner can normally be reached on Monday through Friday, 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Xuan Lan Nguyen/ 07/08/08
Primary Examiner
Art Unit 3683